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June 17, 2020

BY ECF

The Honorable Richard M. Berman
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *United States v. Michael Scott*, 11-cr-00457 (RMB)
Joint Request for Time-Served Sentence and
Early Termination of Supervised Release

Dear Judge Berman:

We are CJA counsel to defendant Michael Scott, who is currently serving a term of supervised release in the above-referenced case. There is a status conference scheduled before Your Honor in this matter on Tuesday, June 23, 2020 at 12:30 p.m. We have conferred with AUSA Benjamin Woodside Schrier and U.S. Probation Officer George Olivares with regard to Mr. Scott, and the parties are prepared to proceed to sentencing on the Violation of Supervised Release (“VOSR”) to which Mr. Scott entered a guilty plea on March 28, 2018. Furthermore, counsel for Mr. Scott, the U.S. Attorneys’ Office, and the U.S. Probation Office have agreed to jointly and respectfully recommend that Your Honor sentence Mr. Scott to time served on the violation, and terminate his supervised release pursuant to 18 U.S.C. § 3583(e)(1) at this time. Early termination is warranted by Mr. Scott’s conduct and is in the interests of justice.

On November 29, 2011 Mr. Scott entered a plea of guilty to drug distribution and other charges in the above-captioned case, and on December 22, 2014 the Court sentenced Mr. Scott to time served on those charges. Your Honor also sentenced Mr. Scott to a term of ten years of Supervised Release, of which Mr. Scott has served five and a half years.

Mr. Scott was initially supervised by the U.S. Probation Department for the District of Nevada, where he had moved to live near his family members. After a successful transition and three years without incident, Mr. Scott had an unfortunate relapse into alcohol abuse in early 2018, resulting in related arrests and the VOSR, as described in further detail below. But after he was returned to New York in early 2018, Mr. Scott has successfully completed a lengthy course of

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inpatient treatment for alcohol abuse and for anger management, and has been fully compliant with the conditions of his supervision. He has maintained gainful employment, juggled two full-time jobs, learned new work skills, and kept a stable residence in the Bronx where he rents a room from an NYPD officer. In light of Mr. Scott's steady compliance with the terms of his supervision over the past two years, and his substantial compliance for the great majority of five and a half years, the parties respectfully ask the Court to terminate Mr. Scott's supervision pursuant to 18 U.S.C. §3583(e)(1).

The Court should terminate supervision at this time.

This Court has the authority to terminate supervision at any time after the expiration of one year, if such action is "warranted by the conduct of the defendant released and the interest of justice." *See* 18 U.S.C. §3583(e)(1). Mr. Scott's overall conduct while on supervision, and particularly in Las Vegas from 2015 through 2017 and after entering inpatient treatment in New York, demonstrates that the interests of justice warrant early termination.

Following his release from prison in 2014, Mr. Scott successfully maintained gainful employment in Nevada, where he lived near his mother and sister. Mr. Scott worked at Violette's Vegan restaurant in Las Vegas and was promoted to a manager position. In status conferences with the Court in 2015, 2016, and 2017, Mr. Scott described receiving positive reviews from his supervisors and customers, while working consistently long hours. The Court did not receive any negative reports from the Department of Probation during that time. Mr. Scott was successful, got married, and was able to afford a residence and to purchase a motorcycle and car for transportation.

Around November 2017, Mr. Scott left Violette's Vegan for a position as a build technician at RO Bus Sales which offered higher pay, better work hours, and the opportunity to learn automotive mechanics skills. As previously shared with the Court in a letter dated March 26, 2018, Mr. Scott's then-supervisor, Gary Stucki described that Mr. Scott handled "stressful situations" in a "very respectful and professional manner," and that "he is very eager to learn more and does better every day." *See* Exhibit A. Mr. Scott also enrolled in night classes three times a week to further develop his knowledge of mechanics, and he obtained certifications in various aspects of automotive manufacturing and repair.

Unfortunately in early 2018, Mr. Scott suffered a serious setback in his effort to rehabilitate. He relapsed with alcohol abuse, which led to his arrest in Nevada on state charges arising from domestic disputes with his then-wife. After he was arrested, Your Honor ordered that Mr. Scott be returned to New York, and the Probation Department lodged the VOSR which mirrored the charges that were then pending in Nevada state court. On March 28, 2018 Mr. Scott entered a plea of guilty to the specification, and Your Honor remanded him to custody at the MCC. At that point Mr. Scott candidly shared with the Court that he struggled with alcohol abuse through his life but had never received treatment, and counsel for Mr. Scott and the government together

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recommended that Your Honor send him to inpatient treatment so that he could deal with his alcohol addiction and anger management issues and get back on track.

The Court ordered Mr. Scott to undergo inpatient treatment, and in April 2018 he was transferred from the MCC New York to the Fox Run inpatient facility in Rhinebeck, New York. Mr. Scott completed nearly four months of intensive counseling and treatment, which included programming to address substance abuse and anger management aimed at combatting domestic violence. While at Fox Run, Mr. Scott excelled. He worked hard, he never tested positive for any substances, and he received several certificates attesting to his positive influence on the other residents at the facility. *See Exhibit B.* Mr. Scott remained at Fox Run until August 28, 2018, when he was transferred to the High Bridge inpatient facility in the Bronx. At High Bridge, Mr. Scott was offered the opportunity to obtain employment and leave the facility to go to work. Again Mr. Scott excelled. He worked two full-time jobs, he never tested positive for any substances, and he was an exemplary resident who earned special privileges for good behavior. Mr. Scott was discharged from the High Bridge facility on March 11, 2019, and has been living independently in the Bronx ever since.

In the fall of 2018, Mr. Scott successfully secured gainful employment and eventually worked at two full-time jobs at once. Mr. Scott obtained a full-time job with Platinum Inc., where he still works as a floor technician, maintaining and repairing marble floors in office buildings throughout the city. This job provides a good salary, health care, annuity benefits and union membership. Prior to the COVID-19 outbreak, Mr. Scott also worked at Olive Garden where he was elevated from head line cook to a culinary professional with training privileges, but the restaurant could not retain him once restaurants were ordered closed. Mr. Scott unfortunately contracted COVID-19 because his work for Platinum required him to be out and around other people during the height of the pandemic. Fortunately he recovered and was able to return to work. Platinum President Jim Halpin recognized Mr. Scott's sacrifices during the pandemic in a letter dated May 7, where he wrote that Mr. Scott has "stood out as an important part of our company." Mr. Halpin further noted that Mr. Scott is among the "select employees who have shown dedication, hard work and loyalty throughout the COVID-19 pandemic" who would be receiving "additional monies." *See Exhibit C.* With his Platinum income, Mr. Scott has been able to maintain a stable home in the Bronx, where he rents out a room from an NYPD police officer, and financially support his three children. *See Exhibit D* (pay stubs from May 2020).

After Mr. Scott finished inpatient treatment, he traveled to Las Vegas with Your Honor's permission to appear in court on the state charges that were still pending. All charges stemming from the arrests in Las Vegas in early 2018 have now been dismissed. *See Exhibit E.* Given Mr. Scott's exemplary conduct for the great majority of time while on supervised release, and his

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very successful efforts at rehabilitation while in inpatient treatment, we respectfully submit that it is appropriate to terminate Mr. Scott's supervised release at this time.

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Mr. Scott has been down a long road since he was initially arrested in 2011 for conduct that occurred well over a decade ago. The charges were admittedly very serious, but Mr. Scott's conduct both during the course of the underlying case as well as his remarkably successful efforts to rehabilitate himself show that he is a success story. This Court took a chance on Mr. Scott by giving him a time-served sentence, and he has worked hard to demonstrate that he can fulfill the responsibilities of a law-abiding and productive citizen. Under the circumstances, early termination of supervision is in the interests of justice. For all the reasons set forth above, we and the government together ask the Court to sentence Mr. Scott to time served for the VOSR, and terminate supervision pursuant to 18 U.S.C. § 3583(e).

Respectfully submitted,

s/Steven M. Witzel

cc: AUSA Benjamin Woodside Schrier (by ECF)

U.S. Probation Officer George Olivares (by E-mail: george_olivares@nysp.uscourts.gov)